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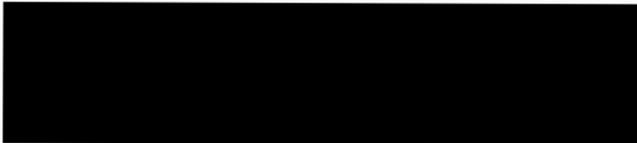
Date: **SEP 22 2006**

IN RE:



APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Chicago, IL, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States (U.S.) under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having attempted to procure admission into the United States by falsely claiming U.S. citizenship on January 2, 1995. The applicant is married to a U.S. citizen. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director concluded that the applicant submitted no documentation in support of her waiver and failed to demonstrate that her spouse would suffer extreme hardship as a result of the applicant's inadmissibility. The application was denied accordingly. *Decision of the District Director*, dated January 10, 2005.

On appeal, counsel submits new evidence and states that these documents support a finding of extreme hardship to the applicant's U.S. citizen spouse. *Counsel's Appeal's Brief*, dated February 8, 2005.

The record contains but is not limited to the following documents: an affidavit from the applicant's spouse; an affidavit from the applicant; the applicant's spouse's birth certificate; the applicant's marriage certificate; birth certificates of the applicant's spouse's four daughters; copy of a child support order; a copy of a rental receipt; country reports for Mexico and a letter from the applicant's church.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

(i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

(ii) Falsely claiming citizenship. –

(I) In General –

Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this Act . . . is inadmissible.

Section 212(i) of the Act provides that:

(1) The Attorney General [now the Secretary of Homeland Security, "Secretary"] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal

of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

The record indicates that on January 2, 1995 the applicant made a false claim to U.S. citizenship by presenting a U.S. birth certificate issued to a [REDACTED] in an attempt to gain entry into the United States.

The AAO notes that aliens making false claims to U.S. citizenship on or after September 30, 1996 are ineligible to apply for a Form I-601 waiver. See Sections 212(a)(6)(C)(ii) and (iii) of the Act.

In considering a case where a false claim to U.S. citizenship has been made, Service [CIS] officers should review the information on the alien to determine whether the false claim to U.S. citizenship was made before, on, or after September 30, 1996. If the false claim was made before the enactment of IIRIRA, Service [CIS] officers should then determine whether (1) the false claim was made to procure an immigration benefit under the Act; and (2) whether such claim was made before a U.S. Government official. If these two additional requirements are met, the alien should be inadmissible under section 212(a)(6)(C)(i) of the Act and advised of the waiver requirements under section 212(i) of the Act.

Memorandum by Joseph R. Greene, Acting Associate Commissioner, Office of Programs, Immigration and Naturalization Service, dated April 8, 1998 at 3. Because the applicant's false claim to U.S. citizenship occurred before September 30, 1996, she is eligible to apply for a waiver pursuant to section 212(i) of the Act.

Section 212(i) of the Act provides that a waiver of the bar to admission resulting from section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member. Hardship the alien herself experiences due to separation is irrelevant to section 212(i) waiver proceedings unless it causes hardship to the applicant's spouse. Once extreme hardship is established, it is but one favorable factor to be considered in the determination of whether the Secretary should exercise discretion. See *Matter of Mendez*, 21 I&N Dec. 296 (BIA 1996).

The AAO notes that extreme hardship to the applicant's spouse must be established in the event that he resides in Mexico or in the event that he resides in the United States, as he is not required to reside outside of the United States based on the denial of the applicant's waiver request. The AAO will consider the relevant factors in adjudication of this case.

The first part of the analysis requires the applicant to establish extreme hardship to her spouse in the event that he resides in Mexico. The applicant's spouse asserts in his declaration that if the applicant is removed from the United States he will relocate to Mexico to preserve the family unit. He states that relocating to Mexico will cause him financial and emotional suffering. He states that his entire family lives in the United States and he is an active member of his community. He states that his children do not speak Spanish and would suffer if they were relocated to Mexico. The applicant's spouse also states that he has two daughters from a previous marriage who he will be separated from if he relocates to Mexico. He is required by court order to pay child support for these two daughters in the amount of \$60.00 per week. Counsel states in his brief that the applicant's spouse will not be able to pay his child support if he relocates to Mexico because he

will not be able to find employment in Mexico. Counsel states that the standard of living in Mexico is lower than in the United States and that employment prospects in Mexico are not promising for an unskilled worker. Counsel submitted two country reports to support his claims.

The AAO notes that although the country reports show that Mexico is a middle income country with problems concerning poverty, the reports do not reflect that someone with the applicant's spouse's skills would be unable to find work and maintain his wellbeing while meeting his child support obligations. In addition, the applicant does not establish how the relocation of his children to Mexico would cause him extreme hardship. The AAO notes that some hardship is involved when relocating to a different country, with a different language and cultural, however the record does not show that these hardships are permanent or that they amount to extreme hardship for the applicant's spouse. Lastly, the applicant's spouse did not establish strong family ties to the United States. The record does not establish where the applicant's spouse's family lives in the United States, how often he is in contact with his family or his family's ability to visit him in Mexico. Therefore, the current record does not reflect that relocating to Mexico will result in extreme hardship to the applicant's spouse.

The second part of the analysis requires the applicant to establish extreme hardship in the event that her spouse remains in the United States. Counsel states in his brief that the applicant's family is a two income family and that the applicant's spouse relies on the applicant for income. The record includes receipts for monthly expenses including a receipt for rent for \$750.00; a student loan payment of \$110; and child support payments of \$60.00 per week. The record also includes the applicant and her spouse's 2003 tax returns and W-2 Forms. The applicant's 2003 joint tax return with her spouse shows an income of \$34, 475 for the year. The applicant's 2003 W-2 Form shows that the applicant only contributed \$2,819 to the joint income for that year. Therefore, the applicant's spouse has not established that he would suffer extreme financial hardship as a result of the applicant's removal from the United States because the applicant's contribution to the family income is minimal. The AAO recognizes that the applicant's spouse will endure hardship as a result of separation from the applicant. However, the current record does not reflect that the applicant's spouse will suffer extreme hardship as a result of the applicant's inadmissibility.

U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991). For example, *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. In addition, *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), held that the common results of deportation are insufficient to prove extreme hardship and defined extreme hardship as hardship that was unusual or beyond that which would normally be expected upon deportation. *Hassan v. INS*, *supra*, held further that the uprooting of family and separation from friends does not necessarily amount to extreme hardship but rather represents the type of inconvenience and hardship experienced by the families of most aliens being deported.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's spouse caused by the applicant's inadmissibility to the United States. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether she merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.